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In re Application of :
Harriet L. Robinson et al. :
Serial No. 08/187,879 : LETTER REGARDING DRAWINGS
Filed: January 27, 1994 :
Attorney Docket No. UMMC9103A2 :
:

This is in response to the petition filed March 14, 1994, and supplemented by facsimile on June 3, 1994, requesting that the above-identified application be accorded a filing date of January 27, 1994.

On January 27, 1994, the application was deposited without an executed declaration.

On March 1, 1994, Application Division mailed a Notice stating, inter alia, that drawings of Figures 1 and 2 described in the specification were required in compliance with 35 USC 111 and that the filing date of the application would be the date of receipt of the omitted drawings.

In response, on March 14, 1994, inter alia, the present petition and the requisite petition fee were filed. Petitioners argue that twenty (20) sheets of drawings containing Figures 1-3, 4A-C, 5-6, 7A-D, 8A-D, 9-15, 16A-B, 17A-D, and 18 were included with the application papers deposited on January 27, 1994. As evidence thereof, petitioners submitted a copy of their postcard receipt which acknowledges receipt of twenty (20) sheets of drawings, including Figures 1-3, 4A-C, 5-6, 7A-D, 8A-D, 9-15, 16A-B, 17A-D, and 18, on January 27, 1994. Petitioners request that the application be accorded a filing date of January 27, 1994 and the petition fee be refunded. Copies of two (2) sheets of drawings including Figures 1 and 2 were submitted by facsimile on June 3, 1994.

Upon review of the record, no sheets of drawings containing Figures 1 and 2 deposited on January 27, 1994, have been located among the application papers. However, the evidence is convincing that the application papers deposited on January 27, 1994, included twenty (20) sheets of drawings, wherein two (2) sheets of drawings containing Figures 1 and 2

were subsequently misplaced in the PTO. Therefore, the application was complete on filing and entitled to a filing date of January 27, 1994.

In view of the above, the request is granted. The two (2) sheets of drawings containing Figures 1 and 2 submitted on June 3, 1994 will be used for examination purposes. The petition fee will be refunded.

Since this application was deposited without an executed declaration, the Notice of March 1, 1994 was correct only to the extent that an oath or declaration in compliance with 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e) were required. As declarations in compliance with 37 CFR 1.63 and the \$65.00 surcharge were filed on April 4, 1994, the submissions of April 4, 1994 completed this application.

Receipt is acknowledged of two (2) small entity statements and a request for reimbursement filed March 31, 1994 (certificate of mailing of March 28, 1994, and March 27, 1994, being a Sunday) and two (2) declarations in compliance with 37 CFR 1.63 and \$65.00 surcharge filed April 4, 1994.

A review of the record reveals that the request for refund and the small entity statement were filed within two (2) months of the payment of the full filing fee. Therefore, \$862.00 (one-half the filing fee) will be refunded.

The application is being forwarded to the Office of Finance for crediting \$992.00 (\$130.00 for the petition fee and \$862.00 for one-half the filing fee) to counsel's deposit Account No. 08-0380.

Thereafter, the application will be returned to Application Division for further processing with a filing date of January 27, 1994, using the application papers filed January 27, 1994, the declarations filed on April 4, 1994, the two (2) sheets of drawings filed June 3, 1994, and an indication on the file wrapper that twenty (20) sheets of drawings were included on filing.

Fred A. Silverberg
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Special Program Examiner
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